THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16307 of 2000

ORDER:

This writ petition is filed by the workman being aggrieved by the Award made in I.D.No.51 of 1997, dated 01-05-2000, wherein the petition filed by the workman under Section 2A(2) of the Industrial Disputes Act (for short I.D.Act) was rejected in toto without granting any relief.

It is the case of the petitioner that he was appointed as cleaner with effect from 08-04-1988 in A.P.S.R.T.C. and his services were regularized in the said cadre with effect from 01-03-1989. While so, the petitioner was removed from service on 25-05-1996 after conducting a detailed enquiry, as certain misconduct was alleged against him. Aggrieved by the same, he filed an appeal and the same was dismissed on 17-01-1997. Further, the petitioner preferred a review before the Regional Manager, Nizamabad, and the same was also dismissed on 16-05-1997. Having no other option, the petitioner filed an application under Section 2A(2) of I.D.Act before the Labour Court-II, Hyderabad, which was taken up on file as I.D.No.51 of 1997. The Labour Court, after elaborate consideration of the matter and after looking into the material made available before it, came to the conclusion that the punishment imposed by the 2nd respondent herein is just and proper and held that the petitioner is not entitled for any relief and as such rejected the claim petition by order dated 06-03-2000 and the same is arbitrary and illegal.

A detailed counter affidavit has been filed by the respondent denying the allegations made by the petitioner. The charge levelled against the petitioner, which is grave in nature, is fully proved and therefore, the award passed by the Labour

Court rejecting the claim of the petitioner is just and proper and it does not call for any interference by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the award passed by the Labour Court and other material available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error in confirming the findings of the Enquiry Officer, Disciplinary Authority, Appellate Authority and Review Authority. The Labour Court also elaborately discussed as to the way in which the petitioner involved into the misconduct and was guilty of the charge. However, I am of the opinion that the Labour Court has not properly considered as to the proportionality of the punishment while exercising its power under Section 11-A of the I.D.Act. Admittedly, the petitioner rendered more than eight years of service as on the date of removal and absolutely there was no serious charge or allegation against him. It is the first time that the petitioner seems to have involved into the misconduct of theft article, which was not even thousand rupees worth. The petitioner is now aged about 36 years and he may not be able to get employment elsewhere. Under those circumstances, I am of the opinion that one more opportunity can be given to the petitioner to mend his ways and not to repeat such misconduct.

In view of the above, the Award passed by the Labour Court is set aside and the respondents are directed to reinstate the petitioner afresh. It is needless to mention that the petitioner is not entitled for continuity of service, backwages, attendant benefits, etc., for any purposes, such as, seniority, retiral benefits and increments. Further, the petitioner shall give an undertaking that he will not repeat such misconduct in future and, if any, such misconduct is repeated, the authorities are at liberty to take severe action against him. On giving such undertaking, the petitioner shall be reinstated into service afresh within a period of one month from

the date of receipt of such undertaking.

Accordingly, the writ petition is disposed of. No order as to costs.

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25-08-2005

Prv